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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,844	12/22/2003	Debra N. Welchel	20193	9083

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KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

EXAMINER

BOLLINGER, DAVID H

ART UNIT PAPER NUMBER

3653

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/743,844	WELCHEL ET AL.	
	Examiner	Art Unit	
	David H. Bollinger	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-15, 19-27, 31-33 and 35-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35-38 is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-15, 19-27 and 31-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The finality of the previous Office action is withdrawn and the indicated allowability of the subject matter of claims 5, 17 and 19 is also withdrawn. This withdrawal of the allowability of subject matter is a result of the examiner's failure to fully appreciate the teachings of the prior to Sauer et al, U.S. Patent No. 6,439,386 B1, of record and the failure to fully appreciate the breadth of the claim language. New rejections employing the above mentioned prior follow.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 through 3, 7 through 9, 13 through 15, 19 through 21, 25 through 27 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Sauer et al '386 (of record).

Sauer et al '386 disclose a non-refillable dispenser for dispensing from a tabletop and convertible to dispensing from a conventional rolled product fixture (see abstract). Further, the dispenser includes connecting means formed in the housing of the dispenser at two spaced apart areas (see Figs. 2 and 2A, note perforations 50 separated by strip 52) to provide a pair of spaced apart openings to permit the housing to be coupled to the rolled product fixture (see Figs. 1, 1A, 3, 4 and 5). The connecting means being masked as a portion of the housing (see Figs. 2, 2A and 6) and being easily unmasked when the perforations are

opened. Sauer et al '386 also shows at least one wall (16 or 18 shown in Fig. 3) of the housing is disposed at an oblique angle relative to a vertical support surface when coupled to a fixture. Sauer et al '386 also shows the dispenser housing being constructed of paperboard (see column 2 lines 25-26) and may include a polymer film (see column 3 lines 9-11).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 10 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer et al '386 in view of Mitchell et al '605.

Sauer et al '386 as interpreted above in paragraph 3 teaches everything except the compartment formed by the housing includes dry sheets and a container of premoistened sheets.

Mitchell et al '605 teaches such a dispenser with a housing forming a compartment to contain both dry sheets 16 and a container of premoistened sheets 117 (see Fig. 8).

In view of the teachings of Mitchell et al '605, it would have been obvious to one of ordinary skill in the art to provide both dry sheets and a container of premoistened sheets within the housing of the dispenser of Sauer et al '386 in order to provide the convenience of both types of sheets.

7. Claims 11, 23 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer et al '386 in view of Ponsi et al.

Sauer et al '386 as interpreted above in paragraph 3 teaches everything except the housing including a resealable cover.

Ponsi et al teaches providing a dispenser with a resealable cover 24 (see column 3 lines 1-14) for the dispensing opening.

It would have been obvious to one of ordinary skill in the art to provide the dispenser of Sauer et al '386 with a resealable cover for the dispensing opening as taught by Ponsi et al. This would provide additional protection from contamination for the sheets contained within the housing.

8. Claims 12, 24 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer et al '386 in view of Medoff.

Sauer et al '386 as interpreted above in paragraph 3 teaches everything except the housing is constructed of a material including cellophane.

Medoff teaches a housing for a tissue dispenser constructed of cellophane (see page 1 lines 90-97 and Figures 1 and 2).

It would have been obvious to one of ordinary skill in the art to construct the housing of Sauer et al '386 of cellophane in view of the teachings of Medoff since Sauer et al '386 teaches (as noted above in paragraph 3) the housing can be constructed of a variety of materials.

9. Claims 35 through 38 are allowed.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David H. Bollinger whose telephone number is 571-272-6935. The examiner can normally be reached on Monday through Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki, can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the

Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David H. Bollinger
Primary Examiner 2/10/06
Art Unit 3653